

MDR Tracking Number: M5-04-2351-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 3-30-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the functional capacity evaluation and the work hardening program (initial and additional hours) rendered from 7/25/03 through 8/28/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, the request for reimbursement for dates of service 7/25/03 through 8/28/03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 16<sup>th</sup> day of August 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

RLC/rlc

Enclosure: IRO decision

August 5, 2004

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REVISED REPORT**  
**Corrected items in dispute.**

Re: Medical Dispute Resolution  
MDR #: M5-04-2351-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: 5055

Dear

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

## **REVIEWER'S REPORT**

### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: correspondence, H&P, office notes, physical therapy notes, FCE and radiology reports.

Information provided by Respondent: correspondence and designated doctor reports.

### **Clinical History:**

The claimant is a 43-year-old female who was working when she was injured on \_\_\_\_\_. The worker injured her low back, neck, and right elbow. Immediate medical attention was not noted from the reviewed medical record. The claimant consulted with a chiropractor, her treating doctor, on 04/21/03 and was diagnosed with a strain of the neck, strain of the lumbar region, strain of the thoracic region, and strain of the knee/leg. A course of conservative applications that included pathophysiological therapeutics and chiropractic care were implemented. Radiographic imaging performed on 04/21/03 of the cervical, lumbar, and thoracic spine were unremarkable.

The claimant consulted an M.D. on 04/22/03; and was diagnosed with multiple strain/sprain injuries, and continued conservative management was recommended, and MR imaging over the cervical/thoracic/lumbar spine was proposed. MR imaging over the lumbar spine on 04/25/03 was unremarkable. MR imaging of the cervical spine performed on 04/25/03 revealed a 4-mm broad disc protrusion at C4. The worker was initiated into a work-hardening/work-conditioning program on 07/01/03, which continued through 08/28/03.

Functional capacity evaluation performed on 06/24/03 revealed that the claimant was able to function at a physical demands classification (PDC) level below sedentary due to the patient's refusal to complete manual material handling applications in the functional capacity evaluation. Functional capacity evaluation performed on 08/11/03 revealed that the claimant was able to function within a medium physical demands classification (lifting

65 pounds). The required medical examination, (RME) on 07/08/03 revealed that the claimant was at maximum medical improvement and was not a candidate for work-hardening services; recommendations were made for an immediate referral to a designated doctor.

**Disputed Services:**

FCE, work hardening-initial and work hardening-each additional hour during the period of 07/25/03 through 08/28/03.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the FCE and work hardening program in dispute as stated above were not medically necessary in this case.

**Rationale:**

The treating provider has not established a need for the progression of this claimant to upper level therapeutics that include work-hardening. This claimant is not an ideal candidate for the transition to upper level therapeutics in any capacity. The rationale for the provider's progression of this claimant to an upper level therapeutic program given the duration of time from the injury event is not clear. In most cases, progression to an upper level program is reserved for those claimants that have well-documented psychosocial deficits of function. An MMI score of 44% does not provide enough psychosocial data to warrant a shift in the management of this claimant's condition to upper level therapeutic programs.

Further, the claimant has a series of lower level diagnoses that include: strain of the neck, strain of the lumbar region, strain of the thoracic region, and a strain of the knee/leg. Among rehabilitation professionals, lower level diagnoses that are effectively treated within the strain/sprain therapeutic algorithm are very rarely progressed to upper level therapeutics. The provider has failed to establish the utilization of any other ICD-9 code than a strain/sprain in the medical record provided. There is not enough clinical data presented to warrant the diagnoses of cervical and inter-vertebral disc disorder as noted in the functional capacity evaluation from 06/24/03 through 09/09/03.

The treating provider's expeditious utilization of imaging modalities (MR and radiographs) is highly atypical and not normal practice with claimants experiencing like/similar complaints/mechanisms of injury.

The afore-mentioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- Johnson, L. S., et al. *Work Hardening: Outdated Fad or Effective Intervention?* Work. 2001; 16 (3): 235-243.
- Lechmer, D. E. *Work Hardening and Work Conditioning Interventions: Do They Affect Disability?* Phys Ther. 1994 May; 74 (5): 471-93.
- *Overview of Implementation of Outcome Assessment Case Management in the Clinical Practice.* Washington State Chiropractic Association; 2001 54p.

Sincerely,